

# HOUSE BILL No. 1403

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 23-14-31.

**Synopsis:** Authorization for cremation. Provides that an individual may prepare a document requesting that the individual be cremated upon the individual's death. Establishes information that must be received before a crematory authority may cremate a person who has signed a document requesting to be cremated.

**Effective:** July 1, 2001.

**Avery**

January 11, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1403

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 23-14-31-26.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2001]: **Sec. 26.5. (a) An individual may**  
4 **execute a document requesting to be cremated upon the**  
5 **individual's death.**

6 **(b) An individual is considered to have executed a valid**  
7 **document under this section if the document meets the following**  
8 **requirements:**

9 **(1) The document is an original document with original**  
10 **signatures required by this subsection.**

11 **(2) The document specifically requests, without any**  
12 **qualification or limitation, that the individual be cremated**  
13 **upon the individual's death.**

14 **(3) The document is signed by the individual.**

15 **(4) The document is dated.**

16 **(5) The document was either:**

17 **(A) properly notarized; or**



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**(B) signed by two (2) witnesses who attest that they witnessed the individual sign the document.**

SECTION 2. IC 23-14-31-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 27. (a) Except as provided in subsection (c) **and section 27.1 of this chapter**, a crematory authority shall not cremate human remains until the authority has received the following:

(1) A cremation authorization form provided by the crematory authority, signed by an authorizing agent, containing the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director who obtained the cremation authorization.

(C) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(D) A statement by the authorizing agent that the authorizing agent:

(i) has the right to authorize the cremation of the decedent;

(ii) is not aware of any person who has a superior priority right to that of the authorizing agent; or

(iii) if the authorizing agent is aware that there is another person who has a superior priority right to that of the authorizing agent, a statement that the authorizing agent has made all reasonable efforts to contact the person, has been unable to contact the person, and has no reason to believe that the person would object to the cremation of the decedent.

(E) Authorization for the crematory authority to cremate the human remains.

(F) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(G) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to

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1 receive cremated remains.

2 (H) The manner in which final disposition of the cremated  
3 remains is to take place, if known. If the cremation  
4 authorization form does not specify final disposition in a  
5 grave, niche, or scattering area, the form may indicate that the  
6 cremated remains will be held by the crematory authority for  
7 not longer than thirty (30) days from the date of cremation  
8 before the remains are released. The form may indicate that  
9 the crematory authority shall return cremated remains that  
10 have not been disposed of within thirty (30) days to the funeral  
11 director or funeral home of record who shall hold them for not  
12 longer than sixty (60) days from the date of cremation before  
13 disposing of the cremated remains either as previously  
14 authorized or, if there is no authorization, in any legal manner.

15 (I) A statement confirming the identity of the valuables  
16 belonging to the decedent previously taken and being held by  
17 the funeral director or the funeral home.

18 (J) A statement prohibiting the crematory from selling  
19 nonorganic material recovered from the human remains.

20 (K) A statement that the authorizing agent has made specific  
21 arrangements for any viewing of the decedent before  
22 cremation, or for a service with the decedent present before  
23 cremation. If a viewing or service is planned, the date and time  
24 of the viewing or service and whether the crematory authority  
25 is authorized to proceed with the cremation upon receipt of the  
26 human remains.

27 (L) The signature of the authorizing agent, attesting to the  
28 accuracy of all representations contained on the cremation  
29 authorization form.

30 (2) A completed and executed burial transit permit provided by  
31 the local health officer to the funeral director indicating that the  
32 human remains are to be cremated.

33 (3) A copy of:

34 (A) the completed and executed certificate of death; or

35 (B) a release for cremation by the coroner if an investigation  
36 of the circumstances of the deceased person's death came  
37 under the authority of the coroner, but the release does not  
38 constitute an authorization as required by this chapter.

39 (b) The cremation authorization form required under subsection  
40 (a)(1) must be signed by the funeral director who obtained the  
41 cremation authorization. The funeral director shall execute the  
42 cremation authorization form as a witness and is not responsible for the

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representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

- (1) who died in another state; and
- (2) whose remains are transported to Indiana by:
  - (A) a licensed funeral director; or
  - (B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory; if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred. However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply.

SECTION 3. IC 23-14-31-27.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 27.1. (a) Notwithstanding section 27 of this chapter, a crematory authority may cremate human remains of a decedent if the authority has received the following:**

- (1) A document signed by the decedent that meets the requirements under section 26.5 of this chapter.**
- (2) A cremation authorization form provided by the crematory authority that is signed by the decedent's spouse, adult child, parent, sibling, or other relative or a public administrator, including a township trustee, coroner, or state appointed guardian and that contains the following information:**
  - (A) The identity of the human remains and the time and date of death.**
  - (B) The name of the funeral director who obtained the cremation authorization.**
  - (C) The name of the person who signed the cremation authorization form and the relationship between the person and the decedent.**
  - (D) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages**



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caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(E) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to receive cremated remains.

(F) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, niche, or scattering area, the form may indicate that the cremated remains will be held by the crematory authority for not longer than thirty (30) days from the date of cremation before the remains are released. The form may indicate that the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner.

(G) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(H) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(I) If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(J) The signature of the person signing the cremation authorization form, attesting to the accuracy of all representations contained on the cremation authorization form.

(3) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(4) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the

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1 release does not constitute an authorization as required by  
2 this chapter.

3 (b) The cremation authorization form required under  
4 subsection (a)(2) must be signed by the funeral director who  
5 obtained the cremation authorization. The funeral director shall  
6 execute the cremation authorization form as a witness and is not  
7 responsible for the representations made by the person who signed  
8 the cremation authorization form unless the funeral director has  
9 actual knowledge of a false or inaccurate representation. The  
10 funeral director shall certify to the crematory that the human  
11 remains delivered to the crematory authority are the human  
12 remains identified on the cremation authorization form by the  
13 person who signed the cremation authorization form.

14 (c) Notwithstanding subsection (a)(4)(A), a death certificate is  
15 not required for the cremation of the remains of a person:

16 (1) who died in another state; and

17 (2) whose remains are transported to Indiana by:

18 (A) a licensed funeral director; or

19 (B) the agent of a licensed funeral director;

20 for the purpose of cremation at an Indiana crematory;  
21 if the funeral director or funeral director's agent obtains the  
22 documents required for cremation by the state in which the death  
23 occurred. However, if final disposition of the human remains is to  
24 occur in Indiana, the provisions of subsection (a)(4)(A) shall apply.

25 (d) The person who signed the cremation authorization form is  
26 responsible for the final disposition of the decedent's remains. The  
27 crematory authority may not hold the cremated remains longer  
28 than thirty (30) days.

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